

E-Filed 7/20/11

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

MIGUEL A. PANTOJA and MARIA
PANTOJA,

No. C 11-00268 RS

ORDER TO SHOW CAUSE

Plaintiffs,

v.

BANK OF AMERICA; DOE
CORPORATIONS 1-10; DOES 1-10,
inclusive,

Defendants.


Plaintiffs Miguel Pantoja and Maria Pantoja bring this action against defendant BAC Home Loan Servicing, LP (BAC) (sued as Bank of America) asserting claims arising out of the pending foreclosure of their home. On January 26, 2011, BAC filed its motion to dismiss plaintiffs' first amended complaint, which was subsequently set for hearing on March 17, 2011. Plaintiffs, who are represented by counsel, failed to file an opposition or statement of nonopposition to the motion as required by Civil Local Rule 7-3. Even though BAC's motion was unopposed, the Court provided plaintiffs with substantive reasons for the dismissal of their claims and granted them leave to amend. It should go without saying that plaintiffs may avail themselves of such leave to amend only if they believe in good faith that they can cure the deficiencies identified and, in fact, endeavor to do so.

1 Plaintiffs filed their second amended complaint on June 6, 2011 with scant changes to their
2 factual allegations. On June 20, 2011, BAC filed a motion to dismiss and noticed the hearing for
3 September 9, 2011. Pursuant to Civil Local Rule 7-3, plaintiffs' opposition or statement of
4 nonopposition to BAC's motion was due on July 4, 2011. As plaintiffs failed for the second time to
5 file a response, they apparently lack interest in prosecuting this case.

6 Accordingly, plaintiffs are hereby ordered to show cause in writing why this case should not
7 be dismissed for failure to prosecute. Their show cause response must be filed in this Court no later
8 than **July 28, 2011**. Plaintiffs are further directed to appear for a show cause hearing on **August 11,**
9 **2011, at 1:30 p.m.** Failure to file a response or to appear at the hearing will result in dismissal of
10 the action. Should plaintiffs file a voluntary dismissal of this action pursuant to Federal Rule of
11 Civil Procedure 41(a)(1)(A)(i) by July 28, 2011, plaintiffs need not file a show cause response and
12 the hearing will be vacated.

13
14 IT IS SO ORDERED.

15
16 Dated: 7/20/11

17 
18 RICHARD SEEBORG
19 UNITED STATES DISTRICT JUDGE
20
21
22
23
24
25
26
27
28